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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,071	01/12/2001	Steven M. Shepard	64631-0031	7011

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EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/623,071

Applicant(s)

SHEPARD, STEVEN M.

Examiner

Tung S Lau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 12-14, 17-21, 26 and 28 is/are rejected.
- 7) ☒ Claim(s) 6-9, 11, 15, 16, 22-25 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Examiner's answer

1. This is in response to the appeal brief filed December 12, 2002. After consultation with the supervisor, the examiner is withdrawing the previous rejection on July 9, 2002 and open prosecution on the claimed subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10, 12, 13, 17-21, 26, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Itoga et al. (U.S. Patent 5,475,613).

Itoga discloses a method, apparatus a computer readable storage device containing program of digital computer for non-destructive evaluation of a sample, include the step of obtaining a defect image of a sample using a camera, displaying real time image of the sample on display device, wherein the defect image and the real image of the sample have a one-to-one correspondence with each other and superimpose one of the defect image and the real time displayed image on the other on the defect image and the real time displayed image, a processor coupled with a camera to digitize the reference defect image and

superimpose the defect image on a real time image, referencing the sample while viewing the superimposed sample and defect image on display, marking the sample, measure the characteristic of the sample, locating the defects (col. 3-4, lines 50-43, fig. 3, 5a, 5b, col. 5-6, lines 55-26, abstract)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoga et al. (U.S. Patent 5,475,613) in view of Griencewic (U.S. Patent 5,801,919).

Itoga discloses a apparatus including the subject matter discussed above except the processor and display are constructed as part of the camera.

Griencewic disclose such apparatus to have an easy use of the camera (col. 1-2, col. 54-11)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Itoga to have the processor and display are

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constructed as part of the camera taught by Griencewic in order to have an easy use of the camera.

Claim Objections

4. Claims 6-9, 11, 15, 16, 22-25, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309.

The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX - (703)

872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319

TC2800 Customer Service RightFAX - (703) 872-9317

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